



Coordinator-General for Remote Indigenous Services Act 2009

No. 68, 2009

**An Act to provide for a Coordinator-General for
Remote Indigenous Services, and for related
purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 68, 2009

**An Act to provide for a Coordinator-General for
Remote Indigenous Services, and for related
purposes**

[Assented to 8 July 2009]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Coordinator-General for Remote Indigenous Services Act 2009*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Object of Act

The object of this Act is to provide for a Coordinator-General for Remote Indigenous Services, who will monitor, assess, advise in relation to, and drive:

- (a) the development and delivery of services and facilities by governments, in each remote location specified by the Minister, to a standard broadly comparable with that in non-Indigenous communities of similar size, location and needs elsewhere in Australia, including through:
 - (i) improvements to the coordination of the development and delivery of such services and facilities; and
 - (ii) reforms to the development and delivery of such services and facilities; and
- (b) progress towards achieving the Closing the Gap targets in those specified locations.

4 Definitions

In this Act:

Agency Head has the meaning given by the *Public Service Act 1999*.

Closing the Gap targets means the 6 targets agreed to in the *National Indigenous Reform Agreement*, included in Schedule F to

the *Intergovernmental Agreement on Federal Financial Relations* that took effect on 1 January 2009.

Coordinator-General means the Coordinator-General for Remote Indigenous Services mentioned in section 7.

government services and facilities, in a community, means services and facilities provided in the community by, for or on behalf of the Commonwealth, a State, a Territory or a local government, whether the services and facilities are provided:

- (a) only to Indigenous persons; or
- (b) to the community more generally.

head, of a service agency, means:

- (a) in the case of an Agency (within the meaning of the *Public Service Act 1999*)—the Agency Head of the Agency; or
- (b) in the case of any other service agency established for a public purpose—the person holding, or performing the duties of, the principal office in respect of the service agency; or
- (c) in the case of an individual—that individual; or
- (d) in any other case—the chief executive officer (however described) of the service agency.

Indigenous means:

- (a) a member of the Aboriginal race of Australia; or
- (b) a descendant of the Indigenous inhabitants of the Torres Strait Islands.

Indigenous Affairs Minister, of a State or Territory, means the Minister of the State or Territory who is responsible for the administration of matters relating to Indigenous affairs.

Local Implementation Plans has the meaning given by the National Partnership Agreement on Remote Service Delivery.

member of the Coordinator-General's staff means an APS employee whose services are made available to the Coordinator-General as mentioned in section 27.

Section 5

National Partnership Agreement on Remote Service Delivery means the *National Partnership Agreement on Remote Service Delivery* that took effect on 27 January 2009.

non-Indigenous community means a community of which no significant proportion is Indigenous.

remote location means a Remote Indigenous Location (within the meaning given by the National Partnership Agreement on Remote Service Delivery).

service agency means a department, agency or authority of:

- (a) the Commonwealth; or
- (b) a State; or
- (c) a Territory.

specified remote community has the meaning given by section 5.

State or Territory Coordinator-General has the meaning given by subsection 9A(3).

5 Specified remote community

- (1) A ***specified remote community*** is a community in a remote location specified by the Minister under subsection (2).
- (2) The Minister may, by notice published in the *Gazette*, specify a remote location in a State or a Territory for the purposes of subsection (1) if a significant proportion of the population of the location is Indigenous.
- (2A) Before the Minister specifies the remote location under subsection (2), the Minister must consult with the Indigenous Affairs Minister of the State or Territory about the proposal to specify the remote location.
- (3) A notice made under subsection (2) is not a legislative instrument.

6 Act binds Crown

- (1) This Act binds the Crown in each of its capacities.

- (2) This Act does not make the Crown liable to be prosecuted for an offence.

Part 2 Establishment and functions of Coordinator-General for Remote Indigenous Services

Division 1 Establishment of Coordinator-General for Remote Indigenous Services

Section 7

**Part 2—Establishment and functions of
Coordinator-General for Remote
Indigenous Services**

**Division 1—Establishment of Coordinator-General for
Remote Indigenous Services**

7 Coordinator-General for Remote Indigenous Services

There is to be a Coordinator-General for Remote Indigenous Services.

Division 2—Functions and general powers of Coordinator-General

8 Functions of Coordinator-General

The functions of the Coordinator-General are to monitor, assess, advise in relation to, and drive:

- (a) the development and delivery of government services and facilities in each of the specified remote communities to a standard broadly comparable with that in non-Indigenous communities of similar size, location and needs elsewhere in Australia, including through:
 - (i) improvements to the coordination of the development and delivery of such services and facilities; and
 - (ii) reforms to the development and delivery of such services and facilities; and
- (b) progress towards achieving the Closing the Gap targets in the specified remote communities.

9 Powers of Coordinator-General

- (1) The Coordinator-General has power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions.
- (2) The Coordinator-General's powers include, but are not limited to, the following powers:
 - (a) the power under section 10 to request persons to produce information and documents to the Coordinator-General;
 - (b) the power to request persons to attend meetings convened by the Coordinator-General;
 - (c) the power to request assistance from service agencies;
 - (d) the power under section 16 to report failures to comply with requests made by the Coordinator-General, including the power to report such failures to the Minister;

Part 2 Establishment and functions of Coordinator-General for Remote Indigenous Services

Division 2 Functions and general powers of Coordinator-General

Section 9A

- (e) the power under section 14 to comment on Local Implementation Plans;
- (f) the power to do anything incidental to the Coordinator-General's functions;
- (g) any other powers conferred on the Coordinator-General by this Act or by any other law.

9A Requests to be made through State and Territory Coordinators-General

- (1) The Coordinator-General may make a request (the *original request*) under this Act to a member of the staff of a service agency of a State or Territory only by:
- (a) requesting the relevant State or Territory Coordinator-General to give the original request to that member of the staff of the service agency; and
 - (b) the State or Territory Coordinator-General giving the original request to the member.

Note: If a State or Territory Coordinator-General fails to comply with a request under paragraph (1)(a), the Coordinator-General may report the failure: see section 16.

- (2) However, if the Coordinator-General is not satisfied that the State or Territory Coordinator-General has complied with the request made under paragraph (1)(a), the Coordinator-General may make the original request by:
- (a) requesting the head of the service agency to give the original request to that member of the staff of the service agency; and
 - (b) the head of the service agency giving the original request to the member.

Note: If the head of a service agency fails to comply with a request under paragraph (2)(a), the Coordinator-General may report the failure: see section 16.

- (3) The relevant *State or Territory Coordinator-General* is the person (if any) nominated by the Indigenous Affairs Minister of the State or Territory.

Division 3—Monitoring

10 Coordinator-General may request persons to provide information and documents etc.

- (1) For the purpose of performing his or her functions, the Coordinator-General may request a person:
- (a) to give the Coordinator-General specified information within a specified time; or
 - (b) to produce to the Coordinator-General specified documents within a specified time; or
 - (c) to attend before the Coordinator-General to answer questions at a specified place at a specified time.

Note 1: Section 11 provides that compliance with a request does not result in a loss of legal professional privilege.

Note 2: If a person fails to comply with a request, the Coordinator-General may report the failure: see section 16.

- (2) A person who, in good faith, complies with a request under subsection (1) is not liable:
- (a) to any proceedings for contravening any other law because of that conduct; or
 - (b) to civil proceedings for loss, damage or injury of any kind suffered by another person because of that conduct.

11 No loss of legal professional privilege

Information or a document does not cease to be the subject of legal professional privilege merely because it is:

- (a) given or produced in response, or included or referred to in a response, to a request made under section 10; or
- (b) referred to in answering a question asked pursuant to a request made under section 10.

Part 2 Establishment and functions of Coordinator-General for Remote Indigenous Services

Division 3 Monitoring

Section 12

12 Coordinator-General may make and keep copies of documents

The Coordinator-General may make and keep copies of all or part of any documents produced under section 10.

13 Limitation of powers under this Division

This Division does not have effect to the extent that it would impair the capacity of a State to exercise its constitutional powers.

Division 4—Local Implementation Plans

14 Local Implementation Plans

- (1) The Coordinator-General may comment on draft Local Implementation Plans.
- (2) The Coordinator-General must monitor the implementation of each Local Implementation Plan.

Division 5—Reporting

15 Regular reports on government services and facilities in specified remote communities

The Coordinator-General must prepare and give to the Minister twice each year, or as otherwise required by the Minister, a report on:

- (a) the development and delivery, during the period since the Coordinator-General last gave a report to the Minister under this section, of government services and facilities in each of the specified remote communities to a standard broadly comparable with that in non-Indigenous communities of similar size, location and needs elsewhere in Australia, including through:
 - (i) improvements to the coordination of the development and delivery of such services and facilities; and
 - (ii) reforms to the development and delivery of such services and facilities; and
- (b) the progress that has been made during that period towards achieving the Closing the Gap targets in the specified remote communities.

16 Reports on failures to comply with requests

Scope

- (1) This section applies if:
 - (a) a person fails to comply with a request made by the Coordinator-General under:
 - (i) paragraph 9(2)(b) (attendance at meetings); or
 - (ii) section 10 (provision of information and documents etc.); or
 - (b) a service agency fails to comply with a request for assistance made by the Coordinator-General under paragraph 9(2)(c); or

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- (ba) a State or Territory Coordinator-General fails to comply with a request made by the Coordinator-General under paragraph 9A(1)(a); or
- (bb) the head of a service agency fails to comply with a request made by the Coordinator-General under paragraph 9A(2)(a); or
- (c) an Agency Head or APS employee fails to cooperate with the Coordinator-General.

Initial discussion of Coordinator-General's concerns

- (2) The Coordinator-General may discuss the matter with such persons as the Coordinator-General considers appropriate.

Coordinator-General may escalate concerns

- (3) If the Coordinator-General is not satisfied with the result of the discussions under subsection (2), the Coordinator-General may report the matter to the head of the relevant service agency.
- (4) If the Coordinator-General is not satisfied with the response of the head of the service agency, the Coordinator-General may report the matter to:
 - (a) the Minister; and
 - (b) if the Coordinator-General considers it necessary to do so—the Prime Minister.

17 Other reports

For the purpose of performing his or her functions, the Coordinator-General may prepare and give to the Minister reports other than those mentioned in sections 15 and 16.

18 Criticism of service agencies

If the Coordinator-General proposes to include in a report under this Division material that is expressly or impliedly critical of a service agency, or a part of a service agency, the Coordinator-General must consult with the head of that service agency.

Part 2 Establishment and functions of Coordinator-General for Remote Indigenous Services

Division 5 Reporting

Section 18

Note: Compliance with this section for the purposes of including material in one report under this Division also counts as compliance for the purposes of including substantially the same material in another report under this Division.

Part 3—Administrative provisions about Coordinator-General

19 Appointment

Appointment by Governor-General on full-time basis

- (1) The Coordinator-General is to be appointed by the Governor-General by written instrument. The appointment is to be on a full-time basis.

Note: The Coordinator-General is eligible for reappointment: see subsection 33(4A) of the *Acts Interpretation Act 1901*.

Obligation to fill vacancy as soon as practicable

- (2) Whenever a vacancy occurs in the office of Coordinator-General, an appointment must be made to the office as soon as practicable.

Period of appointment

- (3) The Coordinator-General holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

Terms and conditions not covered by this Act

- (4) The Coordinator-General holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Governor-General.

20 Acting appointments

- (1) The Minister may, by written instrument, appoint a person to act as the Coordinator-General:
 - (a) during a vacancy in the office of Coordinator-General (whether or not an appointment has previously been made to the office); or

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- (b) during any period, or during all periods, when the Coordinator-General:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.
- (2) An appointment under subsection (1) ceases to have effect after 12 months if it does not cease earlier.
- (3) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion to act had not arisen or had ceased.

Note: See sections 20 and 33A of the *Acts Interpretation Act 1901*.

21 Remuneration

- (1) The Coordinator-General is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Coordinator-General is to be paid the remuneration that is prescribed by the regulations.
- (2) The Coordinator-General is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

22 Leave of absence

- (1) The Coordinator-General has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant the Coordinator-General leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

23 Engaging in other paid work

The Coordinator-General must not engage in paid employment outside the duties of his or her office without the Minister's approval.

24 Disclosure of interests to the Minister

The Coordinator-General must give written notice to the Minister of all interests, pecuniary or otherwise, that the Coordinator-General has or acquires and that could conflict with the proper performance of the Coordinator-General's functions.

25 Resignation

- (1) The Coordinator-General may resign his or her appointment by giving the Governor-General a written resignation.
- (2) The resignation takes effect:
 - (a) on the day it is received by the Governor-General; or
 - (b) if a later day is specified in the resignation—on that later day.

26 Termination of appointment*Obligation to terminate on certain grounds*

- (1) The Governor-General must terminate the appointment of the Coordinator-General if:
 - (a) the Coordinator-General:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the Coordinator-General is absent, except on leave of absence, for 10 consecutive days or for 28 days in any 12 months; or

Section 26

- (c) the Coordinator-General engages, except with the Minister's approval, in paid employment outside the duties of his or her office (see section 23); or
- (d) the Coordinator-General fails, without reasonable excuse, to comply with section 24.

Discretion to terminate for misbehaviour or physical or mental incapacity

- (2) Subject to subsections (3), (4) and (5), the Governor-General may terminate the appointment of the Coordinator-General:
 - (a) on the ground of misbehaviour or physical or mental incapacity; or
 - (b) if the Minister is satisfied that the performance of the Coordinator-General has been unsatisfactory.
- (3) If the Coordinator-General:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);his or her appointment cannot be terminated on the ground of physical or mental incapacity unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.
- (4) If the Coordinator-General:
 - (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
 - (b) is under 60 years of age;his or her appointment cannot be terminated on the ground of physical or mental incapacity unless the Board (within the meaning of that Act) has given a certificate under section 13 of that Act.
- (5) If the Coordinator-General:
 - (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;his or her appointment cannot be terminated on the ground of physical or mental incapacity unless the Board (within the meaning

of that Act) has given an approval and certificate under section 43 of that Act.

27 Coordinator-General's staff

The Coordinator-General may arrange with the Secretary of the Department for the services of APS employees in the Department to be made available to the Coordinator-General.

Part 4—Other matters

28 Annual reports

Annual report to be given to Minister

- (1) The Coordinator-General must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report (an **annual report**) on the operations of the Coordinator-General, and the Coordinator-General's staff, during the year that ended on that 30 June.

Annual report to be tabled in Parliament

- (2) The Minister must cause a copy of each annual report to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

29 Delegation of certain powers by Coordinator-General

The Coordinator-General may delegate all or any of his or her powers under this Act (other than section 27) to a member of the Coordinator-General's staff.

30 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*[Minister's second reading speech made in—
House of Representatives on 27 May 2009
Senate on 25 June 2009]*

(107/09)